

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JUN 01 2009

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SPOKANE, WASHINGTON

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
AT SPOKANE

The UNITED STATES OF AMERICA,
ex rel. CARL SCHROEDER, a Washington
resident

c/o James A. McDevitt, United States
Attorney for the Eastern District of
Washington
United States Attorney's Office
920 W. Riverside Ave , Suite 340
Spokane, Washington 99201

&

c/o Eric Holder
Attorney General of the United States
Department of Justice
10th & Constitution Aves., N.W.
Washington D.C. 20530

Plaintiffs,

vs.

NO. **CV-09-5038-LRS**

PLAINTIFF'S FIRST COMPLAINT FOR
DAMAGES UNDER THE FALSE
CLAIMS ACT

Date Received:

All pleadings and motions to be filed *in*
camera and sealed pursuant to 31
U.S.C. § 3730(b)(2).

[Jury Trial Demanded]

1 CH2M HILL, a Florida Corporation dba
2 CH2M HILL Hanford Group, Inc., a Delaware
3 Corporation and Washington River Protection
4 Solutions, LLC, a Washington Corporation,

5 Defendants.

6 **COMPLAINT**

7 1. Plaintiff, Carl Schroeder, brings these causes of action against
8 defendants CH2M HILL, dba CH2M HILL Hanford Group, Inc. and Washington River
9 Protection Solutions (WRPS). Plaintiff brings the cause of action under 31 U.S.C.
10 3729, *et seq.*, the False Claims Act, on his own account and on behalf of the
11 UNITED STATES OF AMERICA against defendants CH2MHILL, dba CH2M HILL
12 Hanford Group, Inc. for knowingly presenting, or causing to be presented, false or
13 fraudulent claims for payment or approval to the United States and for knowingly
14 making, using, or causing to be made or used, false records or statements to get
15 false or fraudulent claims paid or approved by the United States. Plaintiff brings
16 against WRPS claims for discriminatory and wrongful discharge in retaliation for
17 reporting these violations.
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19 **INTRODUCTION**

20 2. This is a civil action to recover damages in excess of \$75,000 plus all
21 applicable civil penalties and other relief from Defendants for making or causing to
22 be made false or fraudulent statements, representations, and claims to the United
23 States for more than ten years prior to October 1, 2008, under a series of contractual
24 agreements between defendants and the United States, acting through the
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1 Department of Energy. A true and correct copy of one of those contracts is attached
2 hereto as **Exhibit A**. Additionally, this is a civil action for discriminatory and wrongful
3 discharge of Plaintiff Carl Schroeder for engaging in activities protected under the
4 False Claims Act.

5 JURISDICTION AND VENUE

6 3. This Court has jurisdiction under the Federal False Claims Act,
7 31 U.S.C. 3732 and 31 U.S.C. 3730(h).

8 4. The claims in the proposed action arise from the defendants'
9 contractual activities at the Hanford Nuclear Reservation and therefore under the
10 applicable statutes and court rules, and venue is proper in the Eastern District of
11 Washington.

12 5. Disclosure of the information set forth herein to the Government was
13 voluntarily made by Carl Schroeder at the Inspector General's office in Richland,
14 Washington, in January, 2009, when he met with Karrisa Otero of that office.

15 PARTIES

16 6. Carl Schroeder is a *qui tam* Plaintiff for himself and for the United
17 States Government under 31 U.S.C. 3730(b) (1).

18 7. Defendant CH2M HILL is a Florida Corporation with its principal offices
19 located in Englewood, Colorado. Upon information and belief, the principal officials
20 of CH2M Hill Hanford, Inc. were direct employees of CH2M Hill. Defendant CH2M
21 HILL is fully, jointly, and severally liable for the acts of CH2M HILL Hanford Group,
22 Inc., its wholly owed subsidiary as it knowingly, or in reckless disregard or in
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1 deliberate ignorance of the truth caused or permitted false claims or representations
2 to be made to the United States, either directly, or through its control over CH2M
3 HILL Hanford Group, Inc. Defendant CH2M Hill is also a successor in interest to any
4 liability CH2M HILL Hanford Group, Inc. may have to the United States. Finally, the
5 facts and circumstances of this action justify piercing the corporate veil, to the extent
6 permitted by applicable federal and state law, to recover damages claimed herein
7 directly from CH2M HILL.

8
9 8. CH2M HILL Hanford Group, Inc. is a Washington corporation with its
10 principal offices located in Richland, Washington.

11 9. Defendant Washington River Protection Solutions, LLC (WRPS) is a
12 Washington corporation with its principal offices based at 2440 Stevens Center
13 Place, MSIN H6-16, Richland, WA 99354. WRPS is a joint venture between URS
14 Corporation and Energy Solutions.

15 10. Whenever reference is made in this Complaint to any representation,
16 act, or transaction of any of the Defendants herein, such allegation shall be deemed
17 to mean that the principals, officers, directors, employees, agents, or
18 representatives, while actively engaged in the course and scope of their
19 employment, did authorize such acts or transactions on behalf of the Defendants.
20 The Defendants are referred to collectively hereafter as "CH2" or "WRPS."
21

22 THE HANFORD CONTRACTS

23 11. CH2 is a prime contractor to the U.S. Department of Energy ("DOE"),
24 acting through the Office of River Protection, under Contract Number DE-AC27-
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1 99RL14047 (the "Contract"). CH2 conducts the majority of its contractual activities
2 in federally-owned land in southeastern Washington State, on what is commonly
3 referred to as the Hanford Reservation. Originally, Lockheed Martin Hanford
4 Corporation ("LMHC") and DOE entered into the Contract on September 30, 1999.
5 CH2M Hill purchased LMHC in December, 1999. CH2's contract for the Hanford
6 tank farms ended on October 1, 2008. CH2 maintains a presence at the Hanford
7 Site.

8
9 12. WRPS assumed the contract as the Tank Farms operator on
10 October 1, 2008.

11 13. The original mission of the Hanford Reservation was to produce
12 weapons-grade nuclear material. The production of such weapons materials
13 generated both solid and liquid radioactive waste which was stored in vast numbers
14 of very large underground storage tanks. Under the contract, CH2 was to retrieve,
15 treat, and dispose of the waste in a permanent waste repository. The estimated cost
16 of the contract between CH2 and DOE between October 1, 1999 and September 30,
17 2006 was \$2,652,092,374.76 (TWO BILLION SIX HUNDRED FIFTY-TWO MILLION
18 NINETY-TWO THOUSAND THREE HUNDRED SEVENTY-FOUR AND 76/100
19 DOLLARS).

20
21 14. In performing the Contract, which is a "cost-plus" contract for budgeted
22 work, CH2 assembled hundreds of employees to conduct the work related to
23 stabilizing and remediating one of the largest and most complex hazardous waste
24 sites in the world. Unlike traditional cost-plus contracts, which include a "base fee,"
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1 CH2 was able to earn a fee under the Contract only by performing specified fee-
2 bearing work. Under the Contract, CH2 would pay hourly wage employees their
3 wages and then bill DOE for those expenses, plus overhead, incidental expenses,
4 profit, and the like. Thus, the more wages billed by hourly employees, the more fees
5 CH2 made under the contract.

6 **SUMMARY OF DEFENDANTS' FRAUD SCHEME**

7 15. CH2 falsely and fraudulently billed the DOE for work performed at
8 Hanford under its contracts by systematically "upcharging" the work performed. This
9 was accomplished by two principal schemes: 1) billing for full shifts when the
10 employees worked only partial shifts; and 2) by diverting routine work that could
11 have and should have been performed on regular shifts to overtime shifts where
12 workers were paid time-and-a-half or double-time. Workers often performed this
13 diverted work in only a couple of hours on the overtime shift, but left the job early
14 and submitted time cards for a full eight-hour shift.

15 16. The principal areas where CH2's clean-up activities under its Contracts
16 occurred at Hanford were the areas known as West Tank Farm and the East Tank
17 Farm. These tank farms include hundreds of large tanks where radioactive waste is
18 stored, and where it has leaked into the soil and groundwater. The total number of
19 hourly-wage workers employed by CH2 to monitor, maintain, and perform clean-up
20 duties at these tank farms is approximately 500 workers. CH2 also employs
21 numerous supervisory and administrative personnel who control the activities of the
22 hourly workers.
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1 17. Virtually all 400-500 employees engaged in upcharging and overtime
2 abuse with the knowledge and consent of the supervisors and other management.
3 These practices were known, condoned, and encouraged by the hourly workers'
4 supervisors, managers, and directors at CH2. The practices were so widespread
5 that they can only be characterized as the official employment policy of CH2.
6 Employees who have been employed under these contracts for more than ten years
7 will testify that these false and fraudulent billing practices have been occurring for
8 more than 10 years.
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10 **THE ACTIONABLE CONDUCT OF THE DEFENDANTS**

11 18. For the period of more than ten years prior to October 1, 2008, the
12 defendants acted knowingly, or in reckless disregard or in deliberate ignorance of
13 the truth in presenting or causing to be presented to the United States false claims
14 for payment under a series of contracts referenced above for payment or approval in
15 violation of 31 U.S.C. 3729, *et seq.*, the False Claims Act, by:
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17 a) Submitting false, inflated claims or reports for wages paid to
18 hourly employees for far more hours of work than the true number of hours actually
19 worked.

20 b) Submitting false, inflated claims or reports for overtime work by
21 hourly employees at wage rates of time-and-a-half to double-time for routine work
22 that could have and should have been performed routinely during regular hours for
23 the standard hourly wage rate.

24 c) Submitting false, inflated claims or reports for wages paid to
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1 hourly employees for far more hours of overtime work than the true number of hours
2 actually worked. These claims were paid at rates of time-and-a-half to double-time.

3 d) Concealing or failing to disclose the false and inflated claims or
4 reports for hourly work not actually performed, for overtime work that should have
5 been performed on regular shifts at standard hourly rates, and for overtime work not
6 actually performed.

7 19. For the period of ten years prior to October 1, 2008, the defendant
8 CH2 acted knowingly, or in reckless disregard or in deliberate ignorance of the truth
9 in making, using, or causing to be made false records or statements to get claims
10 paid or approved by the United States under a series of contracts referenced above
11 and in violation of 31 U.S.C. 3729, et seq., the False Claims Act, by:

12 a) Submitting false, inflated time records or reports for work by
13 hourly employees for far more hours of work than the true number of hours actually
14 worked.
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16 b) Submitting false, inflated time records or reports for overtime
17 work by hourly employees at wage rates of time-and-a-half to double-time for routine
18 work that could have and should have been performed routinely during regular hours
19 for the standard hourly wage rate.
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21 c) Submitting false, inflated time records or reports for far more
22 hours of overtime work than the true number of hours actually worked. This work
23 was paid at rates of time-and-a-half to double-time.

24 d) Concealing or failing to disclose the false and inflated time
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1 records or reports for hourly work not actually performed, for overtime work that
 2 should have been performed on regular shifts at standard hourly rates, and for
 3 overtime work not actually performed.

4 **THE SPECIFIC FALSE REPRESENTATIONS AND CLAIMS BY DEFENDANTS**

5 20. The specific false representations and claims of the Defendants are
 6 detailed in the accompanying Declaration of Carl Schroeder, which is hereby
 7 incorporated by reference as if set forth fully herein. Plaintiff also alleges, in addition
 8 to the allegations of the accompanying Declaration, that in May 2008, he was
 9 assigned by his supervisor to accompany another supervisor from CH2M Hill
 10 Hanford, Inc., to accompany that supervisor to his home at approximately 3:30 p.m.
 11 for the express purpose of repairing the supervisor's personal air conditioner. Once
 12 that repair had been accomplished, the CH2M Hill supervisor then drove Plaintiff to a
 13 neighbor's house and instructed Carl to also fix his neighbor's air conditioner. The
 14 neighbor was a personal friend of the supervisor. Plaintiff purchased a part for the
 15 repair of the neighbor's air conditioner and repaired it. Plaintiff then returned to his
 16 work site, and was paid for his time at work that day as if he had never left the site.

17 21. As a direct and proximate result of the Defendants' actions alleged in
 18 this Complaint, the United States has sustained damages in excess of the
 19 jurisdictional amount of \$75,000 and in all likelihood, in excess of tens or hundreds
 20 of millions of dollars.

21 **CAUSES OF ACTION**

22 **COUNT I: VIOLATION OF 31 U.S.C. 3729, et seq., THE FALSE CLAIMS ACT**

1 22. The Plaintiffs reallege and incorporate by reference paragraphs 1
2 through 21 above, as though set forth fully herein.

3 23. The Defendants knowingly presented or caused to be presented false
4 claims for payment to the United States Department of Energy, creating liability for a
5 false claims action pursuant to 31 U.S.C. 3729, *et seq.*, the False Claims Act.

6 24. As a result of Defendants' conduct, the United States has suffered
7 damages in an amount to be determined at the time of trial, but an amount which is
8 in excess of the jurisdictional amount of \$75,000 and likely to be in the tens or
9 hundreds of millions of dollars.

10 25. Pursuant to 31 U.S.C. 3729(a)(7) of the False Claims Act, the Plaintiffs
11 are entitled to an award consisting of a trebling of the actual damages sustained by
12 the United States, plus a civil penalty of not less than \$5,000 and not more than
13 \$10,000 per false claim or representation, plus all other relief set forth in said
14 statutes, plus prejudgment interest at the highest rate allowed by law, plus all
15 attorneys fees and court costs.

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18 **COUNT II: WRONGFUL TERMINATION PURSUANT TO 31 U.S.C. 3730(H)**

19 26. As alleged in the accompanying Declaration of Carl Schroeder, when
20 their fraud scheme was investigated by the Inspector General's office in 2008, the
21 Defendant WRPS engaged in discriminatory and retaliatory conduct by suspending
22 and then terminating Plaintiff Carl Schroeder after he made truthful reports of the
23 fraudulent scheme to Defendants and to the Office of Inspector General of the
24 Department of Energy, in violation of Section 3730(h) of the False Claims Act.
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1 27. Additionally, Defendant CH2 made plaintiff Carl Schroeder a
2 scapegoat for its policy of upcharging hourly work, falsely and wrongfully claiming
3 that the problem was limited to a few "bad apples" when in fact the upcharging was
4 the result of a deliberate and persistent policy whereby Defendants used more than
5 400 hourly workers to defraud the United States by upcharging for their time as
6 alleged above. By this conduct, the Defendants caused Carl Schroeder to be
7 wrongfully terminated by CH2's contractual successor, Washington River Protection
8 Solutions ("WRPS").
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10 28. As the result of Defendants' conduct, Plaintiff has been damaged in an
11 amount to be proven at the time of trial.

12 PRAYER FOR RELIEF

13 WHEREFORE, THE Plaintiffs demand that judgment be entered in favor of
14 the Plaintiffs and against the Defendants as follows:

15 A. On Count 1, the Plaintiff demands a trebling of the actual damages
16 sustained by the United States, plus a civil penalty of not less than \$5,000 and not
17 more than \$10,000 per false claim or representation, plus all other relief set forth in
18 said statutes, plus prejudgment interest at the highest rate allowed by law, plus all
19 attorneys fees and court costs. The Plaintiff further demands such other and further
20 relief as the Court deems just and equitable.
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22 B. On Count II, the Plaintiff demands his damages in an amount to be
23 proven at the time if trial, plus pre-judgment interest at the highest rate allowed by
24 law, plus all attorneys' fees and costs, including reinstatement, double back pay,
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1 compensation for any special damages including litigation costs and reasonable
2 attorneys' fees incurred. The Plaintiff further demands such other and further relief
3 as the Court deems just and equitable.

4 DATED this 26th day of June, 2008. *my 9 53*

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